

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

EDUARDO LOPEZ LOPEZ

Debtor

CASE NO. 12-02702 BKT

CHAPTER 13

OBJECTION TO MOTION TO VACATE OR RECONSIDER OF DISMISSAL

TO THE HONORABLE COURT:

COMES NOW secured creditor BANCO POPULAR DE PUERTO RICO ("BPPR") represented by the undersigned attorney and respectfully sets forth and prays:

1. That on September 12, 2012 the Court entered an order dismissing this case after the Trustee's request. Docket entry 28.
2. That on September 24, 2012 Debtor filed a motion to vacate the order of dismissal including the documentation pending delivery to the Trustee. (Docket entry 30)
3. That BPPR objects to the reconsideration of the Order Dismissing Case based on the facts and legal arguments hereinafter alleged.
4. The proposed Chapter 13 Payment Plan commits Debtor to continue paying directly to BPPR the post-petition installments due on the residential mortgage loan.
5. That Debtor has accrued three (3) months in post-petition arrears in the mortgage payments owed to BPPR for the total amount of \$3,055.92. Debtor's failure to make the post-petitions payments to BPPR constitutes a material default of the terms

of the confirmed plan. Copy of the Statement of Account is attached hereto and made part hereof as Exhibit 1 of the foregoing motion.

6. That Debtor had also accumulated prior to the filing of the petition nine (9) monthly installments in arrears on the mortgage with BPPR. Prior to the filing of the petition BPPR had commenced foreclosure proceedings for which expenses were incurred. The delay caused by Debtor in the management of his case is truly detrimental to BPPR and all creditors as the delay on confirmation stall the distribution to BPPR for the prepetition arrears that total the amount t of \$11,205.33, which includes the foreclosure expenses incurred by BPPR due to Debtor's default.

7. That based on the facts previously alleged, it is obvious that debtor is facing a serious financial feasibility problem that makes one to wonder if the Chapter 13 is the appropriate remedy to achieve debtor's financial reorganization.

8. That in summary debtor has failed to meet the test of Section 1325 (a)(6) of the Code, 11 U.S.C. § 1325 (a)(6) that requires in order for the Court to be able to confirm the Plan it has to make a finding that debtor will be able to make all payments under the plan. See In re Stanley, 296 B.R. 402 (Bank. E.D. Va. 2002); Ewald v. National City Mortgage Co. (In re Ewald), 298 B.R. 76 (E.D. Va. 2002). The financial feasibility test is also applicable to the present procedural incident.

9. That the dismissal of the case is warranted pursuant to 11 U.S.C § 1307 (c)(6) for debtor's material default of a term of the confirmed plan.

WHEREFORE BPPR prays for an Order denying the motion for reconsideration of the Order Dismissing Case filed by debtor.


In San Juan, Puerto Rico this 27th day of September, 2012.

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on even date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Juan Calderon Lithgow, Esq., Jose Ramon Carrion, Chapter 13 Trustee, and all CM/ECF participants.

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STATEMENT OF ACCOUNT

EDUARDO LOPEZ-LOPEZ
Petitioner Name6805
Loan Number12-02702BKT JC
Bankruptcy Number04/05/12
Filing Date

SECURED LIEN ON REAL PROPERTY

Principal Balance as of 10/01/11	115,344.44
Accrued Interest from 09/01/11 to 09/30/12	6,863.93
Interest Rate 5.50000 Accrued No. of Days 396	Per Diem: 17.33

Monthly Payment to Escrow: (To be used when loan will be cancelled under the bankruptcy payment plan)

Hazard	0.00	Taxes	0.00	MIP	0.00
A&H	0.00	Life	0.00		

TOTAL Monthly Escrow	0.00	Mths in Arrears	12	Escrow in Arrears.....	0.00
				Accrued Late Charge	583.25

Advances Under Loan Contract:

Title Search	50.00	Tax Certificate	0.00	Inspection	0.00	1,524.00
Other	1,474.00					
FC Legal Fees	0.00	BKT Legal Fees	300.00			300.00
TOTAL Amount owed as of 09/30/12						124,825.82

AMOUNT IN ARREARS

Pre-Petition Amount:

9 Payments of 987.00 each one	8,883.00
Accumulated Lated Charges	498.33

Advances Under Loan Contract:

Title Search	50.00	Tax Certificate	0.00	Inspection	0.00	1,524.00
Other	1,474.00					
FC Fees	0.00	BKT Legal Fees	300.00			300.00
A = TOTAL PRE-PETITION AMOUNT						11,205.33

Post-Petition Amount:

3 Payment of 987.00 each one	2,961.00	
Late Charge	94.92	
B = TOTAL POST-PETITION AMOUNT		3,055.92
A + B = TOTAL AMOUNT IN ARREARS		14,261.25

OTHER INFORMATION

Next Payment Due 10/01/11	Interest Rate 5.50000	P&I 949.28	Req. Esc 37.72	Monthly Late Charge 47.48
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Investor BANCO POPULAR DE PUERTO RICO

Property Address

X-19 LAOI E URB.LEVITTOWN
TOA BAJA PR

The subscribing representative of Banco Popular de Puerto Rico declares under penalty of perjury that according to the information gathered by Banco Popular de Puerto Rico foregoing is true and correct.


BANCO POPULAR DE PUERTO RICO

Date

9/11/12

EXHIBIT

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